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TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS  
NOVEMBER 10, 2003

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN  
MICHAEL REIS  
STEPHEN RIVERA  
JOSEPH MINUTA

ALSO PRESENT: MICHAEL BABCOCK  
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.  
ZONING BOARD ATTORNEY

MYRA MASON  
ZONING BOARD SECRETARY

ABSENT: LEN MCDONALD

REGULAR MEETING

MR. KANE: I'd like to call the November 10, 2003  
meeting to order.

PRELIMINARY MEETINGS:

MARK GOULET (03-53)

Mr. and Mrs. Mark Goulet appeared before the board for this proposal.

MR. KANE: Request for 21 ft. 3 inches rear yard setback for proposed addition (Use G-8) at 19 Hill View Road in an R-4 zone. To give you an idea and anybody else that's here for a preliminary meeting, the way we do it in New Windsor, we have a preliminary meeting, gives us an idea of what you want to do and what we need from you to get that done. Then you come back for a public hearing because by law, everything has to be done in a public hearing and at that point we'll repeat the process. Okay, sir, tell us what you want to do.

MR. GOULET: What I want to do is put on a small addition on the back of my house, 15 feet out, 17 feet wide to attached to my deck.

MR. KANE: The addition is 15 x 17?

MR. GOULET: Yes and attached to my deck.

MR. KANE: Is that going to run from in place of the deck or next to it?

MR. GOULET: No, right next to it.

MR. KANE: No further out than the house?

MR. GOULET: It's a foot less than the end of the house.

MR. KANE: And it's going to run out even with the end of your deck?

MR. GOULET: No, it's going to come out above it 3

feet.

MR. KANE: Three feet passed the deck that's why he's here?

MR. BABCOCK: That's correct.

MR. KANE: Any easements or runoffs in that area?

MR. GOULET: No.

MR. KANE: Going to be creating any water hazards or runoffs with the building of it?

MR. GOULET: No.

MR. KANE: Cutting down of any trees or substantial vegetation?

MR. GOULET: No, no change.

MR. KANE: Why are you adding the addition?

MR. GOULET: We lived in the house since '75, it's a small house, we just need room to improve our quality of life.

MR. KANE: You don't feel that it would change the nature of the neighborhood that you're in?

MR. GOULET: I think it would improve it.

MR. KRIEGER: It will be consistent with the architecture of the neighborhood?

MR. GOULET: Yes, it's going to look, in fact, it's going to match this house as much as possible, same siding and everything.

MR. REIS: Will there be access from the addition to

the existing deck?

MR. GOULET: Yes, big sliding door to the deck.

MR. KANE: We'll wait and see if they have any questions. They always let me ask all the questions.

MR. KRIEGER: Municipal sewer and water?

MR. GOULET: Yes.

MR. RIVERA: Nothing.

MR. REIS: Accept a motion?

MR. KANE: Yes, I will.

MR. REIS: Make a motion that we set up Mark Goulet for his requested variance at 19 Hill View Road for a public hearing.

MR. MINUTA: Second it.

ROLL CALL

MR. REIS	AYE
MR. MINUTA	AYE
MR. RIVERA	AYE
MR. KANE	AYE

MS. MASON: Just read that, tells you what to do next.

MR. KANE: When you come back to the public hearing, you're going to do something very similar, yours is pretty easy, but other people that don't have pictures which we ask that you provide, we ask for pictures or other types of information that we can base a decision on, but you guys provided that up front. Thank you.

UNITARIAN SOCIETY OF ORANGE COUNTY (03-54)

Ms. Linda Carhart appeared before the board for this proposal.

MR. KANE: Request for 60 square feet variance for proposed freestanding sign (Use: 48-18-H-2-A-2) at 9 Vance Road n an R-1 zone.

MR. KANE: Tell us what you want to do.

MS. CARHART: We propose to put a roadside sign that we can change on a regular basis so that it can be visible from Route 207.

MR. REIS: Will this be a lit sign?

MS. CARHART: It has the capacity to be lighted. At this time, we're not planning to light it.

MR. KANE: But if in the future you wanted to light the sign, it would be internally lit, non-flashing?

MS. CARHART: Correct.

MR. KANE: How far off the road do you plan to put the sign?

MS. CARHART: It's 15 to 20 feet. I think there's a photograph there that shows it.

MR. REIS: There's no existing sign there now?

MS. CARHART: That's correct.

MR. KANE: Ten feet from Route 207?

MS. CARHART: Yeah, it's probably more than that.

MR. KANE: Ten feet would be enough. Mike, is there

anything, any right-of-way?

MR. BABCOCK: No, ten feet is fine, it basically says anywhere on the property as long as it doesn't block the views which will be fine where it is.

MR. KANE: To get it on the record, not blocking the view of any traffic?

MS. CARHART: No.

MR. KRIEGER: My guess is that that means ten feet from the right-of-way, not the paved surface which is why she believes it would be more than ten feet because visually, it would be more than ten feet.

MS. CARHART: Right.

MR. KANE: This sign is double sided.

MS. CARHART: Yes, it is, that's why we're here.

MR. KANE: How big is the actual sign? I notice that you're going for proposed 80 feet, so it's 40 square feet?

MR. BABCOCK: Five by eight, 5 foot high, 8 foot long.

MR. KANE: You feel that's as small as you can make that sign within the code to serve its purpose?

MS. CARHART: With traffic going by at 55 miles an hour, in order to safely read lettering on the sign, it has to be that big.

MR. KANE: Fair enough. Gentlemen, any other questions?

MR. KANE: It's 3 feet 8 inches from the bottom of the sign to the ground and your picture you're showing some

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shrubby, is that just an affect or do you plan to put some shrubby?

MS. CARHART: It will be fine.

MR. KANE: Approximately, how much space are you going to open it between the bottom of the sign to the top of the shrubby?

MS. CARHART: Say it again.

MR. KANE: From the bottom of the sign to the top of the shrubby?

MS. CARHART: Well, probably have three foot shrubs around it covering the poles.

MR. KANE: So you have about eight inches to a foot, somewhere in there approximately?

MS. CARHART: Ah-huh.

MR. KANE: We have to get all the details on the record.

MS. CARHART: Absolutely.

MR. KANE: Not cutting down any substantial shrubby or trees in putting the sign up?

MS. CARHART: We have to do some clearing in order to make it visible from both sides but it's a completely wooded lot.

MR. KANE: And not going to be creating any water hazards or runoffs?

MS. CARHART: No.

MR. KANE: Questions?

MR. REIS: No, sir.

MR. RIVERA: No.

MR. MINUTA: Accept a motion?

MR. KANE: Yes, I will.

MR. MINUTA: I move we should have the Unitarian Society be set up for a public hearing for the sign for requested 60 square feet variance for the proposed freestanding sign at 9 Vance Road in an R-1 zone.

MR. REIS: Second it.

ROLL CALL

MR. REIS	AYE
MR. MINUTA	AYE
MR. RIVERA	AYE
MR. KANE	AYE

MR. KANE: When you come back for the public hearing, take a couple pictures of the roadway.

MS. CARHART: They're there.

MR. KANE: I missed that.

MR. REIS: Nice job.

MR. KANE: Snagged. Very good, thank you.

REV. BRIDGES: One question I have, the congregation name has changed, it's no longer Unitarian Society of Orange County, which is, I noticed that's how it is there, I thought I better raise that.

MR. KRIEGER: I'm glad you raised it at this stage but



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that's all just to make sure that the paperwork is right.

MR. REIS: Who's the variance for?

MS. CARHART: It's for the Unitarian Universal Congregation of Rock Tavern.

MR. KRIEGER: Who owns the property?

MR. KANE: But it's under that name?

MS. CARHART: Right.

MR. KANE: Whatever name's on the deed is what we're going to want to put it under.

MS. CARHART: Okay.

MR. KANE: You'll be all right. Thank you.

JILL TURNER (03-55)

Ms. Jill Turner appeared before the board for this proposal.

MR. KANE: Request for 17 feet rear yard setback for existing rear deck (use: G-8) at 3045 Route 9W in an R-4 zone.

MR. KANE: Jill, tell us what you want to do.

MS. TURNER: There's an existing deck on the property that I just sold last August and I moved to Texas and when we sold the house, we found out that there was a violation on the deck which I had not previously known about and I lived in the house since 1988 and so we're looking for a variance on that deck and the new owner's already moved in.

MR. KANE: Okay, the question then becomes who has to go for the variance, the new owners or the old owner?

MR. REIS: Are you still the owner?

MS. TURNER: I'm not the owner but I signed a proxy.

MR. KANE: There's the answer.

MS. TURNER: For the owner.

MR. KANE: Okay, great.

MS. TURNER: That was part of the agreement.

MR. KANE: How long ago did you sell the home? In August you said?

MS. TURNER: August.

MR. KANE: They didn't find that then?

MR. BABCOCK: Yes, they did.

MS. TURNER: That's when they discovered it.

MR. KANE: And they allowed them to close anyway?

MR. BABCOCK: Right.

MR. KANE: That's up to the bank.

MR. BABCOCK: They allowed them to close, I'm sure they closed with money in escrow with a stipulation that she comes and gets the variance and they'll release her money.

MS. TURNER: Exactly.

MR. KANE: How long has the deck been in existence?

MS. TURNER: I don't know when it was actually built but at least since 1988, that's when I first bought the house.

MR. KANE: Do you have any kind of building permit applied for on that or--

MR. BABCOCK: Yeah, they applied for a permit to get this process going but there was their deck, according to our records, there was no building permit for the deck.

MR. KANE: Okay, has there been any complaints formally or informally about the deck?

MS. TURNER: No.

MR. KANE: Deck's similar in size and nature to other decks in the neighborhood?

MS. TURNER: Yes.

MR. KANE: I have to ask it anyway, are you creating any water hazards or runoffs with the building of the deck or seen anything since 1988?

MS. TURNER: No.

MR. KANE: Cutting down any trees or shrubbery?

MS. TURNER: No.

MR. KANE: Any easements under the deck?

MS. TURNER: No.

MR. KANE: Is there a door coming out to the deck from the house?

MS. TURNER: From the house.

MR. KANE: Without the deck there, if you stepped out the door, it would be a hazard?

MS. TURNER: Absolutely.

MR. REIS: Has the Town inspected the deck at this point?

MR. BABCOCK: I don't think so, Larry, I don't think or Mike, excuse me, I don't think we have because we wait for this process to take place first.

MR. KRIEGER: So you understand that if a variance were granted, it would still be subject to the inspections?

MR. KANE: Got to still pass the code.

MS. TURNER: I'm waiting on the new owner, is it Cuomo Engineering?

MR. KRIEGER: Yeah, it's outside this board, I just wanted to let you know so that you knew that if the variance were granted--

MR. KANE: If it was granted then you're able to have a deck of this size, you just have to make it come up to code. Gentlemen, any other questions?

MR. REIS: Accept a motion?

MR. KANE: Yes, I will.

MR. REIS: I make a motion we set up Jill Turner for her requested variance at 3045 Route 9W for a public hearing.

MR. RIVERA: Second it.

ROLL CALL

MR. REIS	AYE
MR. MINUTA	AYE
MR. RIVERA	AYE
MR. KANE	AYE

CLARA ZGRODEK (03-57)

Stanley and Jeanne Zgrodek appeared before the board for this proposal.

MR. KANE: Request for 14 ft. rear yard setback for proposed sun room (Use: 8-G) at 13 Rocky Lane in an R-4 zone. We have Clara down, probably part owner and it has owner as Stanley?

MR. ZGRODEK: Yes, that's my mom and that was her lot.

MR. KANE: Okay. This is your mom?

MR. ZGRODEK: Yes.

MS. MASON: She's here.

MR. KANE: Tell us what you want to do.

MR. ZGRODEK: We'd like to add a 12 x 16 foot sun room on an existing deck and we need a 14 foot area variance for that.

MR. KANE: How long was the existing deck there for?

MR. ZGRODEK: Excuse me?

MR. KANE: How long was the existing deck there?

MR. ZGRODEK: 16 x 10.

MR. KANE: How long was it there?

MR. ZGRODEK: Since 1989.

MR. KANE: Mike, was there a C.O. for the deck that was existing or permanent?

MR. BABCOCK: I don't see one, Mr. Chairman.

MR. ZGRODEK: We had, the Town was there.

MR. REIS: Sun room is going to be the same dimensions as the existing deck?

MR. ZGRODEK: Yes.

MR. REIS: Same exact dimensions?

MR. ZGRODEK: Yes.

MR. MINUTA: Proposed sun room will meet the height requirement?

MR. ZGRODEK: Yes.

MR. KANE: Did you build the deck in '89?

MR. ZGRODEK: Yes.

MR. KANE: Create any water hazards or runoffs with the building of the deck?

MR. ZGRODEK: No.

MR. KANE: Cut down any trees or substantial vegetation?

MR. ZGRODEK: No.

MR. KANE: Any complaints formally or informally about the deck?

MR. ZGRODEK: No.

MR. KANE: With the adding of the sun room to it, do you feel that this would change the nature of the neighborhood?

MR. ZGRODEK: No, I don't.

MR. KANE: Obviously, without the deck or room there, when you walk out the sliders, it would be a safety hazard?

MR. ZGRODEK: Yes.

MR. KANE: Any other questions guys?

MR. REIS: Steve?

MR. RIVERA: Accept a motion?

MR. KANE: Yes, I will.

MR. RIVERA: That we set up Clara Zgrodek for her requested 14 foot rear yard setback for the proposed sun room at 13 Rocky Lane.

MR. REIS: Second it.

ROLL CALL

MR. REIS	AYE
MR. MINUTA	AYE
MR. RIVERA	AYE
MR. KANE	AYE



JOHN & ELLEN ANTONELLI (03-56)

Mr. John Antonelli appeared before the board for this proposal.

MR. KANE: Request for 26 ft. 4 in. rear yard setback for existing attached rear deck (Use: 8-G) and interpretation and/or use variance for existing two-family house in R-4 zone and 33,570 sq. ft. maximum lot area and 12% developmental coverage all located at 43 Hillside Drive in an R-4 zone.

MR. ANTONELLI: My primary reason here tonight when I bought the house in 1971, I bought a two-family house and now we find out that it's, somebody wrote on the tax card that it was an illegal 220 in 1980 and I'm on the tax rolls as a two-family house. The Town has me down as a two-family house, we bought the house as a two-family house and I want to get it into the right zoning.

MR. KANE: Have you, John, have you used it as a two-family house?

MR. ANTONELLI: Since day one, since day one, I have a notarized letter from the original owner's daughter that the apartment was built in 1961.

MR. KRIEGER: Continuously used?

MR. ANTONELLI: Continuously used and I just, actually, I just had the engineer come in, we brought it up to fire codes.

MR. KANE: Do you have a copy of the letter, John? That's very important.

MR. ANTONELLI: Yes.

MR. KANE: That letter will enable you for pre-existing

zoning with 1961. And therefore, not go through a use variance.

MR. REIS: How long have you owned the home?

MR. ANTONELLI: Since 1971.

MR. REIS: What brings you to the ZBA?

MR. ANTONELLI: We went to sell the house last year and we found out that it was an illegal 220.

MR. KANE: What else do we need to do for that? I want to take care of the most difficult thing first, John, we have that letter there, what else would we need? Do you have separate electric bills on that?

MR. ANTONELLI: Yes.

MR. KANE: For the public hearing, can you bring in a copy of both sets of bills as far back as you can find, that would be appreciated?

MR. ANTONELLI: I don't know how far back.

MR. KANE: Whatever you can do.

MR. ANTONELLI: Because we always had it rented out until I found out on the card, we always thought we had a two-family house because the tax receipts from New Windsor was two family and the County always came down as a two family, two kitchens, two bathrooms.

MR. REIS: What you're going through, John, is not uncommon, okay, it's very typical.

MR. ANTONELLI: I know half the houses on our street are like that so--

MR. KANE: Be here sooner or later. Just note in the

record that he has presented me two tax receipt payments, that state from Orange County that it's a two-family home and dated 1/20/03 and from the Town of New Windsor receipt that it is a two-family residence.

MR. KANE: Can we make copies of those?

MR. ANTONELLI: Sure.

MR. KANE: Cause that's the important thing in here so you can go for an interpretation since the home was built according to the letter in 1961. Mike, do you have any information on that as far as the building of the home or how old it is?

MR. BABCOCK: No, I don't, I do not have that, Mr. Chairman.

MR. ANTONELLI: I believe it was 1950.

MR. KANE: Approximately, 1950, we have that in the record and we have stated the letter that will be in the record too that you lived there in February, 1961, so that would predate zoning, so therefore, you wouldn't have to go for a use variance if the interpretation is read that way so we'll go that route. Okay?

MR. KRIEGER: You'll need a short form EAF in case he does to preserve his options.

MR. KANE: Okay, let's go to the deck, 27 foot 4 inch rear yard setback for existing deck, how long has the deck been there?

MR. ANTONELLI: There's been a deck there since like in the middle of the '70s, there's a concrete patio back there, there's a deck there.

MR. KANE: Was there a deck when you purchased the home

there?

MR. ANTONELLI: Yes, it was a small deck, it wasn't as big as it is now.

MR. KANE: You've changed the deck since then, fixed it up?

MR. ANTONELLI: Yes.

MR. KANE: Any complaints about the deck formally or informally?

MR. ANTONELLI: My neighbor's Central Hudson, so nobody can see it.

MR. KANE: As far as you know, any creation of water as hazards or runoffs with the building of the deck or since then?

MR. ANTONELLI: No.

MR. KANE: Cutting down trees or any substantial vegetation?

MR. ANTONELLI: No.

MR. KANE: Any easements in the deck area?

MR. KRIEGER: On top of any easements?

MR. ANTONELLI: No.

MR. KANE: Deck is similar in size to other decks in your neighborhood?

MR. ANTONELLI: I would imagine so, I mean, I'm not really sure.

MR. KANE: According to Central Hudson.

MR. ANTONELLI: I don't know, you have to go down there and look at everybody's yard, it's hard to tell, the way my house is situated, it's all woods behind me and to the side of me.

MR. KRIEGER: Please note the answer is substantially the same.

MR. ANTONELLI: I would say right, I mean, to be honest with you, that wasn't my real problem because I can convert it back to the concrete patio if I had to.

MR. KRIEGER: The answer to the last question is yes, that's fine.

MR. ANTONELLI: Yes.

MR. KANE: 33,500 square foot minimum lot area, that's because he's in an area that does not allow two family homes?

MR. BABCOCK: That's correct.

MR. KANE: If he predates zoning on that, does he need the variance on that, should we clear it up for the record? If the interpretation comes down on that side, that's the question I have, should we do it?

MR. BABCOCK: Really I don't think we do need it if it's an interpretation that the house was a two family pre-existing.

MR. KANE: It predates zoning so it would be grandfathered in.

MR. BABCOCK: Right.

MR. KRIEGER: That would be my reading, yes.

MR. KANE: Same with the 12 percent development, these two stem from this, so you understand.

MR. ANTONELLI: Right, if it helps any, 15 Hillside Avenue was, it's my cousin's house, she went through the same problem, I guess last year sometime.

MR. KANE: Yeah, we get them here. Gentlemen, do you have any other questions?

MR. RIVERA: I just have a question on the interpretation of the use, what style house is that, is that a ranch, high ranch?

MR. ANTONELLI: It's--Myra, do you have the pictures?

MS. MASON: I do, it's on there.

MR. KANE: It's a New Windsor special.

MS. MASON: You have pictures, Steve.

MR. RIVERA: How is it listed, a ranch, high ranch or bi-level?

MR. ANTONELLI: I guess a ranch, I don't know.

MR. MINUTA: Ranch with a basement.

MR. KRIEGER: I would say it's a raised ranch.

MR. KANE: Any other questions?

MR. RIVERA: No.

MR. ANTONELLI: To be honest with you, if you go inside the house, it's a lot bigger than the outside looks, you just can't believe the size of the rooms there, don't ask me why, but the house looks small, the insides are, the way the house is situated, I guess.

MR. KANE: All set?

MR. ANTONELLI: All set.

MR. KANE: The more you talk, the more it costs you.

MR. REIS: Do we need a minimum square footage?

MR. KANE: If he predates zoning, it should all go away. Except for the thing on the deck.

MR. BABCOCK: Right.

MR. KANE: That's separate from the other issues.

MR. MINUTA: Accept a motion?

MR. KANE: Yes, I will.

MR. MINUTA: Make a motion that we grant John and Ellen Antonelli their request for public hearing to be presented for a public hearing for 26 foot 4 inch rear yard setback for existing rear yard deck, interpretation or use variance for the existing two-family house in an R-4 zone, 33,570 square foot minimum lot area and 12 percent developmental coverage all located at 43 Hillside Drive in an R-4 zone.

MR. RIVERA: Second it.

ROLL CALL

MR. REIS	AYE
MR. MINUTA	AYE
MR. RIVERA	AYE
MR. KANE	AYE

PUBLIC HEARINGS:

LAWRENCE REIS (03-44)

Mr. Lawrence Reis appeared before the board for this proposal.

MR. KANE: Request for 20 ft. front yard setback for proposed screen porch (Use: A-6) at 22 Willow Lane in an R-4 zone. Michael, you're going to abstain?

MR. REIS: I believe that would be in the best interest.

MR. KANE: So be it. Okay, Mr. Reis, once again, tell us what you want to do.

MR. L. REIS: I would like to add a room on the Lanis Avenue side of our home which would be no bigger than 20 feet by 17 feet, 17 being the perpendicular and 20 being parallel to the existing home.

MR. KANE: Part of the reason you're here is because you have two front yards.

MR. L. REIS: I have two front yards, I'm being penalized.

MR. KRIEGER: Although it appears visually to only have one front yard already.

MR. L. REIS: Exactly.

MR. KANE: Creating any water runoffs?

MR. L. REIS: No.

MR. KANE: Cutting down any trees or substantial vegetation?



MR. L. REIS: No.

MR. KANE: And it will be similar in size to other decks or screened porches in the neighborhood?

MR. L. REIS: Yes.

MR. KRIEGER: In size and appearance?

MR. L. REIS: And appearance, it will match our home.

MR. KANE: I'll ask if there 's anybody in the audience that would like to speak on this issue? We'll open it up to the public. Seeing that there are none at this point, we'll ask Myra how many mailings we had.

MS. MASON: On October 20, 59 addressed envelopes containing the notice of public hearing were mailed out and no responses.

MR. KANE: Gentlemen, any further questions?

MR. RIVERA: Accept a motion?

MR. KRIEGER: Close the public hearing.

MR. KANE: I'll close the public hearing. Public hearing is closed.

MR. RIVERA: Accept a motion?

MR. KANE: Yes, I will, sir.

MR. RIVERA: Move we grant Mr. Lawrence Reis his requested 20 foot front yard setback for proposed screened porch at 22 Willow Lane.

MR. MINUTA: Second it.

ROLL CALL

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MR. REIS  
MR. MINUTA  
MR. RIVERA  
MR. KANE

ABSTAIN  
AYE  
AYE  
AYE

CELLULAR ONE (CHAZEN ENG.) 03-52

MR. KANE: Request for interpretation and/or use variance for telecommunication facility to be located on existing radio tower (48-21M and 48-24B(3) at 535 Toleman Road in an R-1 zone.

Neil J. Alexander, Esq., Ms. Eva Billeci and Mr. Kevin Brennan appeared before the board for this proposal.

MR. KANE: Is there anybody from the public that's here to speak on this issue? Hold on, we'll get your name and address written on this and when we open to the public, you can ask your questions, sir.

MR. ALEXANDER: Good evening, my name is Neil Alexander, I'm an attorney with the law firm of Cuddy & Feder. Also with me is Eva Billeci from the Chazen Company and Kevin Brennan from Cellular One. First thing, housekeeping, in all the paperwork we gave Myra, we didn't submit the original short form EAF and there's a copy for the files and all the paper that we buried her with, as the board may be aware, we submitted an application for site plan and special permit to develop a wireless facility that's pending in front of the planning board. During the course of processing a somewhat minimal installation, we ran into a question with the building inspector as to what is the procedural way to get through this, that is our request for an interpretation in the alternative a use variance. Before I get into the, into some of the legal stuff, I want to pull back and talk about what Cellular One is looking to do here and it's very minor what they're looking to do. This is an existing approximately 224 foot tower, radio transmission tower with a lot of antennas. Cellular One wants to put 6 antennas at the 173 foot mark on the facility. Each antenna is approximately 48 inches by eight inches by 5 1/2 inches. At the ground they want to put in a 12 x 20 foot equipment cabinet which will be fenced and

which will be similar, actually much smaller than the existing 300 foot L-shaped building that's there. That's really all the installation entails. At present, the road is not in the world's greatest condition. As part of its application, Cellular One will make substantial improvements to it, put down Item 4, put down oil and shale, can't do anything about making the grade better. As we talked about this with the planning board and we'll talk about this more with them on Wednesday, but I wanted you to understand really what this all about before we really got into sort of why we're here, which is it was Cellular One's understanding after it read the code that the facility that he was creating in the zone was a shared, really fell under the definition of a shared use. Because there's an existing facility up there, we're going to use it and therefore, it's sharing, different than co-location under your law but in the sense that it wasn't built as a wireless facility, so it's more like what we're doing, putting antennas on top of a rooftop. From Cellular One's perspective, it's not a pivotal issue whether you decided to share use or if you didn't agree with us and want to grant a use variance instead. Cellular One's in the business of providing wireless service, that's really what its most important for us to get and they provide that service. Just so you know, the standard's a little different for when a wireless carrier seeks a use variance in the State of New York Court of Appeals, Cellular One versus Rosenberg, determined that wireless carriers are no different than any utility, like Niagara Mohawk, it's a public utility, needing to provide their service to the public. So what they need to show you is that there is a need that they have to fill and we provided you with a radio frequency report which showed that. Regretably, the Nextel monopole that's across the street is approximately 150 feet lower in elevation and it doesn't work for Cellular One and doesn't meet its need and using this is from Cellular One's perspective a great solution. There is no need to build a new

tower, we're right across from the zone line between commercial and residential so we're as close as you can be to being a commercial property. It's actually residential property that's been used as you know for a long time as a commercial use. So we believe this is a solid application and any questions or any other things we can provide we're here to.

MR. KANE: So if you were to use the Nextel tower, would Cellular One have to build at some point a new tower?

MR. BRENNAN: If we were to use the--

MR. KANE: Nextel tower?

MR. ALEXANDER: They'll give us a lease to use it, it won't fulfill our needs.

MR. KANE: Which means in the future at some point would it be necessary at that point to build another tower to fulfill your needs, a new tower?

MR. ALEXANDER: In the Town as a whole, there's a chance that somewhere, I'm sorry--

MR. KRIEGER: By getting the higher elevation of the tower that you recommend, would that save you the consideration of possibly having to build another tower in the future to get the same coverage?

MR. BRENNAN: If we were--

MR. KRIEGER: If you were on Nextel.

MR. BRENNAN: If we went on Nextel's tower?

MR. KRIEGER: You might well have to build another tower.

MR. ALEXANDER: Yes.

MR. KRIEGER: If you're allowed to co-locate, share on the GNY tower, that would save the possibility?

MR. BRENNAN: If we can on the GNY tower we'll service the balance of New Windsor, which is on the other side of the hill out 207 which the current Nextel tower is at the very, it's only five foot difference in the ground elevation and the 150 foot elevation, so it doesn't even see over that.

MR. KANE: I understand that, I just want to get it all on the record.

MR. BRENNAN: If we went on Nextel.

MR. KANE: If we allow you to do this, we're saving building another tower somewhere down the line.

MR. ALEXANDER: Exactly correct.

MR. BRENNAN: Yes.

MR. MINUTA: I read briefly through some of this. Is there a fence proposed for this site?

MS. BILLECI: Yeah, fencing on the accessway to the equipment building.

MR. MINUTA: And the site itself?

MS. BILLECI: Site's already got fence around the tower so it already closes in, you're using the building on some sides and fence on other but yeah, it's completely squared in now.

MR. BRENNAN: Basically what we're doing is our doorway's going to face the existing building, so our building which is a stone building would act as a

barrier, then we would fence connecting the old building so we would be within the fencing compound of our own entranceway and our building and our cables but we're not fencing in the entire, the balance of the building.

MR. MINUTA: That would be sufficient so that someone can't climb the fence and climb the tower.

MR. BRENNAN: Tower itself is fenced in.

MR. KANE: I think what I'm going to do at this point we have one gentleman in the public is to open up the public portion of this meeting and let this gentleman ask whatever questions he has.

MR. LOREEN: Jerry Loreen (phonetic), Toleman Road. You're going to be putting this on the existing tower, the radio tower?

MR. BRENNAN: Yes.

MR. LOREEN: What kind of affects is it going to be health wise to people, anything?

MS. BILLECI: Nothing.

MR. BRENNAN: Absolutely nothing.

MR. LOREEN: Is there going to be any different looks of it?

MR. BRENNAN: What you will see is our antennas.

MR. ALEXANDER: Our antennas are going to be right here, this is what it would look like, let me give you a color rendering if I can pull it out.

MR. BRENNAN: Which house are you at, sir?

MR. LOREEN: 515 Toleman Road.

MR. ALEXANDER: Here's what exists now, this is what it would look like when it's done, it's going to be the same height difference, the red area, these antennas right here.

MR. KANE: Instead of them, what they're asking to do to be able to use the tower which currently isn't allowed to be used for wireless, if I've got this correct, and there's a wireless tower they could use but if they use that one then in the future they'd have to build a new tower in Town to take care of their needs. Federal regulations makes it very tough to stop them from building that tower, so what we're looking at is using the existing site which is what New Windsor really wants to do.

MR. LOREEN: So basically just going to put this on the tower, not going to be any different or any construction?

MR. BABCOCK: They're building a new shed. Other than that, that's it.

MR. BRENNAN: It's going to be a stone building.

MR. ALEXANDER: At grade, it's a 12 x 20 foot pre-cast, pre-fabricated shelter.

MR. LOREEN: Re-do the road?

MR. ALEXANDER: Yes.

MR. BRENNAN: Is your house on either side?

MR. LOREEN: I'm on the left side of it, probably two houses from it.

MR. KANE: Did they answer your questions, sir?



MR. LOREEN: Yes.

MR. KANE: Anything else?

MR. LOREEN: No.

MR. KANE: Do you have a problem with them doing it this way?

MR. LOREEN: It's only going to be the antennas on there.

MR. KANE: Correct.

MR. KRIEGER: Now, if you were to, hypothetically, if you were to use the Nextel tower, you'd have to add the antenna apparatus on there?

MR. ALEXANDER: Right.

MR. KRIEGER: Same apparatus, just a question of which tower you put it on?

MR. ALEXANDER: Correct.

MR. BABCOCK: I have one thing--

MR. KANE: Let me close the public hearing. You have no further questions?

MR. LOREEN: No.

MR. KANE: Let me close the public portion of the meeting and ask Myra how many mailings we had.

MS. MASON: On the 28th of October, 20 addressed envelopes were mailed out and I had no responses.

MR. KANE: Mike?

MR. BABCOCK: In talking with Mark Edsall, the planning board engineer, we feel that we want to say that if it's, if you do an interpretation of this, it would also be an interpretation that they would not need a special permit at the planning board because they would be there by your interpretation. What that would do is basically eliminate when they go back to the planning board, if they go back and they have to get a special permit, it's going to require them to go for another public hearing at the planning board which we don't feel that they really need to do.

MS. MASON: They're already doing that, they're doing that Wednesday night, they're having a public hearing, they requested to do that.

MR. ALEXANDER: Just so everything's on the up, we're on a very tight time schedule so and we appreciate your bringing that up and we really do, so what we did was we belt and suspendered it, we felt you can schedule a public hearing, if we didn't need it, then I obviously--

MR. BABCOCK: The code says that you can install them and they can be installed as a special permit. This really isn't installing a tower, just putting up the antenna, so we didn't believe that they have to get a special permit. But if they applied and they're going Wednesday night, it's as good as done.

MS. MASON: What Mark said was that we would just tell the public that it's not a requirement by special permit at the public hearing but they're still going to have the public hearing.

MR. BABCOCK: There's one gentleman, I'm sure he's got notice for Wednesday night's meeting.

MR. MINUTA: Special permit would be applicable

strictly to this site just for clarification?

MR. KANE: Yes.

MR. RIVERA: The additional weight, will that diminish the structural integrity of the tower?

MR. BRENNAN: We've done a structural analysis of the tower which is submitted to both the planning board and I believe your board, we have to upgrade the guy cables and that's all we have to do and it falls within the structural analysis.

MR. RIVERA: Thank you.

MR. MINUTA: And the fall zone radius?

MR. BRENNAN: Fall zone radius is within.

MS. BILLECI: It's 30 percent of the tower height.

MR. MINUTA: That's within our regulations.

MS. BILLECI: That's within your, yeah, it's maybe 60 foot diameter and the parcel itself is one acre so it doesn't even fall outside the parcel.

MR. BRENNAN: One other thing that I may say here tonight that that tower is 224 feet, that there's no such thing as a guy tower, it's designed to collapse basically within itself, that tower will never go because of the guys. If you see, there's three separate different guys going up the tower. If the tower itself collapsed, it would collapse within itself because the weaker points are at each of those points coming down. So the towers are designed to collapse within themselves, even the large monopoles won't fall over, they'll bend.

MR. KANE: Not going to be cutting down any trees, cut

through all the little things, trees, substantial vegetation in the building of either the tower, adding on the antennas, the new building that you're putting up there?

MR. ALEXANDER: No.

MR. KANE: Not creating water hazards or runoffs?

MS. BILLECI: No.

MR. KANE: Not over any easements, anything like that?

MS. BILLECI: No.

MR. KANE: Okay, our next thing, Andy, is to take care of the SEQRA.

MR. KRIEGER: First of all, you have to declare that you're going to review it as a limited review, limited to this proceeding only.

MR. KANE: So we're going to do a limited SEQRA review to this meeting only?

MR. KRIEGER: Yes.

MR. KANE: And we'll need to vote on that, gentlemen, I need a proposal.

MR. MINUTA: I make a motion that we make a SEQRA review limited to the purpose of this meeting.

MR. REIS: Second it.

ROLL CALL

MR. REIS	AYE
MR. MINUTA	AYE
MR. RIVERA	AYE

**MR. KANE**

**AYE**

MR. KANE: Need a motion to declare a negative declaration on that.

MR. MINUTA: Make a motion that we declare negative declaration.

MR. RIVERA: Second it.

ROLL CALL

MR. REIS

**AYE**

MR. MINUTA

**AYE**

**MR. RIVERA**

**AYE**

MR. KANE

**AYE**

MR. KANE: Next step I think is the use variance.

MR. MINUTA: I'd like to make a motion for a use variance for this subject property for Cellular One radio tower at 535 Toleman Road.

MR. REIS: Second it.

## ROLL CALL

MR. REIS

**AYE**

MR. MINUTA

**AYE**

MR. RIVERA

**AYE**

MR. KANE

**AYE**

MR. KANE: So we opted not to do the interpretation.

MR. ALEXANDER: Thank you very much.

FORMAL DECISIONS:

TAZ INDUSTRIES  
PADEN, JO ANN  
VAN ORDEN, MARILYN  
NEW WINDSOR DENTAL MANAGEMENT  
PRENDERGAST, THOMAS  
HERSH, ROBERT  
COMO, JOSEPH  
HALL, JOSEPH  
LEE, JAMES  
KELLER, ALLEN

MR. REIS: Motion that we make an approval on all the formal decisions in block.

MR. MINUTA: Second it.

ROLL CALL

MR. REIS	AYE
MR. MINUTA	AYE
MR. RIVERA	AYE
MR. KANE	AYE

MR. MINUTA: Motion to adjourn.

MR. RIVERA: Second it.

ROLL CALL

MR. REIS	AYE
MR. MINUTA	AYE
MR. RIVERA	AYE

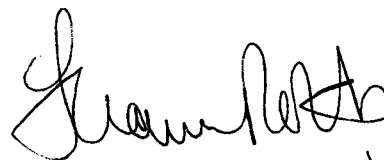
November 10, 2003

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MR. KANE

AYE

Respectfully Submitted By:

A handwritten signature in cursive script, appearing to read "Frances Roth".

Frances Roth  
Stenographer

11/10/03